

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4866 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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RAVISHANKER BHAGVANDAS TANDEL

Versus

NAVJIVAN UDYOG MANDIR PVT. LTD  
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Appearance:

MR PC MASTER for Petitioner

MR DIGANT JOSHI AGP for Respondent No. 1  
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CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 07/07/2000

ORAL JUDGEMENT

#. Against the order made by the Labour Court, Surat, in Reference (LCN) No. 2/87 on 29.8.85, the present petition is filed under Article 227 of the Constitution of India.

#. The petitioner and one Shantilal were working with the respondent. They did not report for duty on 25th, 26th and 27th July, 1975. They did not intimate in advance about their absence. Subsequently, the leave was not sanctioned. It appears that on 29th July, 1975, when they reported for duties, an explanation was called for from them. But thereafter, the petitioner neither reported for duty nor submitted any explanation in writing. It is admitted that they were absent for three days. They were absent without leave. Evidence of the petitioner was not accepted by the Presiding Officer of the Labour Court and the Labour Court preferred to accept the evidence of the employer. In the instant case, it is surprising that the advocate appearing for the petitioner despite the fact that he made endorsement in the register namely muster roll exh. 41 that he has no objection for the same being admitted in evidence, argued that the muster roll has not been produced and therefore, adverse inference must be drawn. It is required to be noted that the applicant did not approach the Labour Officer immediately. It is also required to be noted that it is also an admitted position that the petitioner was serving at some other place. The Labour Court has accepted the version of the employer that the applicant has voluntarily gone in the service of another employer after leaving his job with the present employer. It is also further observed that opportunities were given to both the sides to make their submissions. The petitioner by a pursis exh. 45 submitted that he has nothing to add in respect of the proposed punishment and the Labour Court pronounced the final decision. Thus, the matter was left to the discretion of the Labour Court. When the findings were accepted by the petitioner to the effect that he left the services or he has left the services of the employer voluntarily, there is no question of granting any benefit. Mr. Master submitted that in view of the decision reported in the case of Workmen of M/s. Firestone Tyre & Rubber India v. Management & others, reported in AIR 1973 SC 1227, this Court should come to a conclusion that the order is harsh and at the most, the Labour Court without awarding backwages should pass order of reinstatement.

#. When the applicant himself stated by filing a pursis that he has nothing to say in respect of the proposed punishment and he has accepted the finding recorded, it is difficult to appreciate the submissions. The Apex Court in the case of Mohd. Yunus v. Mohd. Mustaqim and others, reported in AIR 1984 SC 38 has held as under.

"A mere wrong decision without anything more is not enough to attract the jurisdiction of the High Court under Art. 227. The supervisory jurisdiction conferred on the High Courts under Art. 227 of the Constitution is limited "to seeing that an inferior Court or Tribunal functions within the limits of its authority" and not to correct an error apparent on the face of the record, much less an error of law. In exercising the supervisory power under Art. 227, the High Court does not act as an Appellate Court or Tribunal. It will not review or re-weigh the evidence upon which the determination of the inferior court or Tribunal purports to be based or to correct errors of law in the decision."

#. In view of what is stated hereinabove, I find no reason to interfere with the order. The petition is therefore dismissed. Rule is discharged.

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